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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,181	05/01/2006	Jay S. Walker	04-027	5212
22927 7590 09/17/2008 WALKER DIGITAL MANAGEMENT, LLC 2 HIGH RIDGE PARK STAMFORD, CT 06905				
EXAMINER				
LONG, PONYA M				
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3689				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/578,181

**Applicant(s)**

WALKER ET AL.

**Examiner**

FONYA LONG

**Art Unit**

3689

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 01 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 05/01/2006  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This communication is a first Office Non-Final rejection on the merits. Claims 1-30, as originally filed, are currently pending and have been considered below.

#### ***Claim Rejections - 35 USC § 101***

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-30 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to claim..., the claim language does not include the required tie or transformation and thus is directed to nonstatutory subject matter.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 7, 19-21, 23, and 25-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker et al. (6,324,520).

**As per Claim 7**, Walker et al. discloses a method comprising: receiving, from a customer, a request for a product to be dispensed by a vending machine (Claim 1, discloses receiving a selection (i.e. a request) of a first product from the purchaser); determining that a customer service issue exists (Col. 2, Line 65-Col. 3, Line 7, discloses determining whether the product requested by the customer is available, if it is determined that the product is unavailable a customer issue exists); determining whether to provide a resolution to the customer service issue (Col. 7, Line 24-Col. 8, Line 2, discloses determining what product should be offered as a resolution to the purchaser based on criterion such as the average demand rate, which product is due to be restocked at the earliest date, or which product will expire at the earliest date); and providing a resolution to the customer, in which the resolution includes providing an offer for a second product other than a first product indicated by the request (Col. 7, Lines 42-49, discloses offering the purchaser a substitute product (i.e. second product) if the product requested by the purchaser is not available).

**As per Claim 19**, Walker et al. discloses providing a resolution to the vending machine customer comprising at least one of: providing to the customer a product other than a product indicated by the request; providing the customer with money via the vending machine; establishing a credit balance of the vending machine; applying credit toward a customer account of the customer; providing a compensation code to the

customer; providing to the customer a voucher that is redeemable for a benefit from the vending machine; providing to the customer a voucher that is redeemable for a benefit from another vending machine; and providing to the customer a voucher that is redeemable for a product from a retail store (Abstract, discloses providing a purchaser a substitute product when a particular product selected by a purchaser is unavailable).

**As per Claim 20**, Walker et al. discloses providing an offer for one of the second product other than the first product indicated by the request, and a refund (Abstract, discloses providing a purchaser a substitute product (i.e. second product) when a particular product selected by a purchaser is unavailable).

**As per Claim 21**, Walker et al. discloses determining that a sales velocity of the second product is less than a threshold (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate); and providing an offer for the second product (Abstract, discloses providing a purchaser a substitute product (i.e. second product) when a particular product selected by a purchaser is unavailable).

**As per Claim 23**, Walker et al. discloses determining whether to provide a resolution to the customer service issue based on sales velocity of a product (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate).

**As per Claim 25**, Walker et al. discloses recording data associated with the customer service issue (Col. 11, Line 24-Col. 12, Line 17, discloses storing (i.e. recording) data pertaining the a product selected by a purchaser and data pertaining to products that have been offered to a purchaser to substitute the product originally requested by the purchaser); and determining a unique identifier for the customer service issue (Col. 12, Lines 18-35, discloses determining a product identifier that is to be presented to a purchaser in order to resolve a customer service issue).

**As per Claim 26**, Walker et al. discloses determining a resolution based on the recorded data (Col. 11, Lines 46-64, discloses determining a substitute product to offer a purchaser based on data stored on the suggestive sell database); and communicating an indication of the determined to the customer (Col. 12, Lines 18-28, discloses displaying to a purchaser the substitute product).

**As per Claim 27**, Walker et al. discloses receiving information which identifies the customer (Col. 6, Lines 23-34, discloses a detector that detects a presence of a purchaser when he or she is in proximity of the vending machine and outputs a signal indicative of the presence of the purchaser).

**As per Claim 28**, Walker et al. discloses outputting, to the customer, the unique identifier (Col. 12, Lines 18-35, discloses displaying to the purchaser the product identifier corresponding to the suggested substitute product).

**As per Claim 29**, Walker et al. discloses displaying an alphanumeric code (Figs. 3-6, discloses the product identifier being an alphanumeric code (i.e. A1, A2, A3)).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6,324,520) in view of PTS: Vending Machine Refund System (May 02, 2004; herein after known as "PTS").

**As per Claim 1**, Walker et al. discloses a method comprising: receiving, from a customer, a request for a product to be dispensed by a vending machine, in which the request indicates a first product (Claim 1, discloses receiving a selection (i.e. a request) of a first product from the purchaser); determining whether to provide a resolution to the customer service issue (Col. 2, Line 65 - Col. 3, Line 7, discloses determining substitute products and/or services (i.e. resolutions) to offer when a selected product and/or service is unavailable (i.e. customer service issue); and providing, to the customer, an offer for a second product that is not the first product (Claim 1, discloses offering a substitute product (i.e. second product) to the purchaser).

However, Walker et al. fails to explicitly disclose providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options.

PTS discloses an online vending refund system with the concept of providing a plurality of selectable menu options, each of which defines at least one customer

service issue (discloses a vending refund form that a customer fill out, wherein the form contains selectable menu options via a drop down list to identify the date that the customer service issue occurred, the vending machine that created the issue (via machine type), and the reason for the issue (via a reason for refund request)); and receiving, from the customer, a selection of at least one of the menu options, thereby defining an indication of a customer service issue (discloses the customer filling out the vending refund form including selecting from the menu option and submitting the form via online).

Therefore, from the teaching of PTS, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

**As per Claim 2**, Walker et al. discloses providing an offer for one of the second product, and a refund (Abstract and Claim 1, discloses offering the substitute product (i.e. second product) to the purchaser).

**As per Claim 3**, Walker et al. discloses determining that a sales velocity of the second product is less than a threshold (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate).



**As per Claim 4**, Walker et al. discloses determining whether to provide a resolution to the customer service issue based on sales velocity of the second product (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate).

**As per Claim 6**, Walker et al. discloses a method comprising: receiving, from a customer, a request for a product to be dispensed by a vending machine, in which the request indicates a first product (Claim 1, discloses receiving a selection (i.e. a request) of a first product from the purchaser); determining that the vending machine has malfunctioned (Col. 2, Line 65-Col. 3, Line 7, discloses receiving a selection of a first product from a purchaser and determining the availability of the first product (i.e. whether it is unable to be dispensed), if the product is not available (i.e. a malfunction), a substitute product is offered); determining that a sales velocity of a second product is less than a threshold (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate); determining whether to provide a resolution to the customer service issue based on the sales velocity (Col. 7, Lines 30-41, discloses the suggestive sell (i.e. second product) criterion may be a requirement that the average demand for a product associated with the criterion is below a certain average demand rate); and providing, to the customer, a compensation code that is redeemable for the second product (Fig. 1 & 4; Col. 2, Line 65-Col. 3, Line 7, discloses a product identifier (i.e. code) being provided to the

purchaser to be used by the purchaser to receive the substitute product (i.e. second product)).

However, Walker et al. fails to explicitly disclose providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options.

PTS discloses an online vending refund system with the concept of providing a plurality of selectable menu options, each of which defines at least one customer service issue (discloses a vending refund form that a customer fill out, wherein the form contains selectable menu options via a drop down list to identify the date that the customer service issue occurred, the vending machine that created the issue (via machine type), and the reason for the issue (via a reason for refund request)); and receiving, from the customer, a selection of at least one of the menu options, thereby defining an indication of a customer service issue (discloses the customer filling out the vending refund form including selecting from the menu option and submitting the form via online).

Therefore, from the teaching of PTS, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

**As per Claim 8**, Walker et al. discloses the claimed invention as applied to Claim 7, above. However, Walker et al. fails to explicitly disclose receiving, from the customer, an indication of a customer service issue.

PTS discloses an online vending refund system with the concept of receiving, from the customer, an indication of a customer service issue (discloses a customer submitting a vending refund request form that indicates the cause for the refund request (i.e. issue)).

Therefore, from the teaching of PTS, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include receiving, from the customer, an indication of a customer service issue as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

**As per Claim 9**, Walker et al. discloses the claimed invention as applied to Claim 8, above. However, Walker et al. fails to explicitly disclose providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options.

PTS discloses an online vending refund system with the concept of providing a plurality of selectable menu options, each of which defines at least one customer service issue (discloses a vending refund form that a customer fill out, wherein the form contains selectable menu options via a drop down list to identify the date that the customer service issue occurred, the vending machine that created the issue (via

machine type), and the reason for the issue (via a reason for refund request)); and receiving, from the customer, a selection of at least one of the menu options, thereby defining an indication of a customer service issue (discloses the customer filling out the vending refund form including selecting from the menu option and submitting the form via online).

Therefore, from the teaching of PTS, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include providing a plurality of selectable menu options defining a customer service issue; and receiving, from the customer a selection of at least one of the menu options as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

6. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6,324,520) in view of PTS: Vending Machine Refund System (May 02, 2004; herein after known as "PTS") and is further view of Whitten et al. (7,286,901).

**As per Claim 5**, the Walker et al. discloses determining that the first product is unable to be dispensed from the vending machine (Col. 2, Line 65-Col. 3, Line 7, discloses receiving a selection of a first product from a purchaser and determining the availability of the first product (i.e. whether it is unable to be dispensed), if the product is not available, a substitute product is offered).

However, the Walker et al. and PTS combination fails to explicitly disclose disabling the ability to request the first product.

Whitten et al. discloses a vending system with the concept of disabling the ability to request the first product (Col. 3, Lines 15-20, discloses preventing (i.e. disabling) future vend attempts for the first ordered product until the vending machine is visited by a service person).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Walker et al. and PTS combination to include disabling the ability to request the first product as taught by Whitten et al. in order to help prevent cheating of the customer and further tampering.

**As per Claim 10**, Walker et al. discloses the claimed invention as applied to Claim 9, above. PTS discloses a selectable menu option for a reason for refund as "machine did not vend product" (via Page 3).

However, the Walker et al. and PTS combination fails to explicitly disclose determining diagnostic data of the vending machine; and determining, based on the diagnostic data, at least one of the plurality of selectable menu options.

Whitten et al. discloses a vending system with the concept of determining diagnostic data of the vending machine (Col. 3, Lines 30-52, discloses determining whether a product the light continuity and prevents a portion of the light from reaching at least one detector on the opposite side of the monitoring path, wherein the logic circuit on the detecting arm will note the momentary blockage of the light and report it as a delivery of the product); and determining, based on the diagnostic data, at least one of the plurality of selectable menu options (Col. 3, Lines 30-52, discloses determining

whether the machine vended the product based on the data received from the logic circuit).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Walker et al. and PTS combination to include determining diagnostic data of the vending machine; and determining, based on the diagnostic data, at least one of the plurality of selectable menu options as taught by Whitten et al. in order to identify issues relating to the vending machine.

7. Claims 11, 12, 14, 15, 17, 18, 22, 24, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6,324,520) in view of Whitten et al. (7,286,901).

**As per Claim 11**, Walker et al. discloses the claimed invention as applied to Claim 7, above. However, Walker et al. fails to explicitly disclose determining that the vending machine has malfunctioned.

Whitten et al. discloses a vending system with the concept of determining that the vending machine has malfunctioned (Col. 7, Lines 24-30, discloses detecting that a delivery of a product was not made or that an error occurred via the vending machine).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining that the vending machine has malfunctioned as taught by Whitten et al. in order to identify issues relating to the vending machine.

**As per Claim 12**, Walker et al. discloses receiving an indication of a first product to be dispensed (Claim 1, discloses receiving a selection (i.e. a request) of a first product from the purchaser). However, Walker et al. fails to explicitly disclose determining that the vending machine has malfunctioned.

Whitten et al. discloses a vending system with the concept of determining that the vending machine has malfunctioned comprises: determining that the vending machine has failed to dispense the first product (Col. 7, Lines 24-30, discloses detecting that a delivery of a product was not made or that an error occurred via the vending machine).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining that the vending machine has malfunctioned as taught by Whitten et al. in order to identify issues relating to the vending machine.

**As per Claims 14 and 15**, Walker et al. discloses a system for collecting vending machine information comprising: a coin acceptor that detects the amount of money received from coinage deposited into a dispensing device; a card reader that receives electronic currency from a card and applies a charge against the card for a product selected and dispensed by a dispensing device; and a bill validator that accepts and determines an amount of money received from monetary bills deposited into a dispensing device (Col. 5, Lines 57-Col. 6, Line 7). However, Walker et al. fails to

explicitly disclose determining that the vending machine has not processed payment correctly.

Whitten et al. discloses a vending system with the concept of determining that the vending machine has not processed payment correctly; and determining that the vending machine has not properly credited payment that is tendered by the customer (Col. 7, Lines 24-30, discloses detecting that a delivery of a product was not made or that an error occurred via the vending machine).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have an error detected include a payment being processed incorrectly.

**As per Claim 17**, Walker et al. discloses the claimed invention as applied to Claim 7, above. However, Walker et al. fails to explicitly disclose determining diagnostic data of the vending machine.

Whitten et al. discloses a vending system with the concept of determining diagnostic data of the vending machine (Col. 3, Lines 30-52, discloses determining whether a product the light continuity and prevents a portion of the light from reaching at least one detector on the opposite side of the monitoring path, wherein the logic circuit on the detecting arm will note the momentary blockage of the light and report it as a delivery of the product).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al.



to include determining diagnostic data of the vending machine as taught by Whitten et al. in order to identify issues relating to the vending machine.

**As per Claim 18**, Walker et al. discloses determining diagnostic data of the vending machine comprising at least one of: assessing data in a database; receiving an indication of a customer service issue from a customer; generating an image of at least a portion of the vending machine; and receiving data from a sensor that is operable to sense a condition of the vending machine (Col. 11, Line 24-Col. 12, Line 17, discloses assessing data in the transaction database, suggestive sell database, and demand database in order to determine a substitute product to offer a purchaser with a product requested by a purchaser is unavailable).

**As per Claim 22**, Walker et al. discloses the claimed invention as applied to Claim 7, above. However, Walker et al. fails to explicitly disclose determining whether to provide a resolution to the customer service issue based on coin inventory.

Whitten et al. discloses a vending system with the concept of determining whether to provide a resolution to the customer service issue based on coin inventory (Abstract, discloses offering a customer a refund or a second product if the product ordered is unavailable).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to determine to offer a refund to a customer if the vending machine contained the allotted amount of coins needed to provide a full refund; and to determine to offer a second product to a customer if the vending machine did not contain the allotted amount of coins needed to provide a full refund.

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining whether to provide a resolution to the customer service issue based on coin inventory as taught by Whitten et al. in order aid in resolving a vending machine malfunction.

**As per Claim 24**, Walker et al. discloses determining that a third product is unable to be dispensed from the vending machine (Col. 2, Line 65-Col. 3, Line 7, discloses receiving a selection of a first product from a purchaser and determining the availability of the first product (i.e. whether it is unable to be dispensed), if the product is not available, a substitute product is offered).

However, the Walker et al. and PTS combination fails to explicitly disclose disabling the ability of a customer to request the third product.

Whitten et al. discloses a vending system with the concept of disabling the ability of a customer to request the third product (Col. 3, Lines 15-20, discloses preventing (i.e. disabling) future vend attempts for the first ordered product until the vending machine is visited by a service person).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include disabling the ability of a customer to request the third product as taught by Whitten et al. in order to help prevent cheating of the customer and further tampering.

**As per Claim 30**, Walker et al. discloses the claimed invention as applied to Claim 7, above. However, Walker et al. fails to explicitly disclose determining and recording diagnostic data of the vending machine.

Whitten et al. discloses a vending system with the concept of determining diagnostic data of the vending machine (Col. 3, Lines 30-52, discloses determining whether a product the light continuity and prevents a portion of the light from reaching at least one detector on the opposite side of the monitoring path, wherein the logic circuit on the detecting arm will note the momentary blockage of the light and report it as a delivery of the product); and recording the diagnostic data (Fig. 8, via recording failure to deliver a product (814)).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining and recording diagnostic data of the vending machine as taught by Whitten et al. in order to identify issues relating to the vending machine.

8. Claims 13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. (6,324,520) in view of Whitten et al. (7,286,901) and in further view of PTS: Vending Machine Refund System (May 02, 2004; herein after known as "PTS").

**As per Claim 13**, Walker et al. discloses the claimed invention as applied to Claim 12, above. However, Walker et al. fails to explicitly disclose determining that the vending machine has dispensed a product that is not the first product.

Whitten et al. discloses a vending system with the concept of determining that the vending machine has malfunctioned (Col. 7, Lines 24-30, discloses detecting that a delivery of a product was not made or that an error occurred via the vending machine).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining that the vending machine has malfunctioned as taught by Whitten et al. in order to identify issues relating to the vending machine.

PTS discloses an online vending refund system with the concept of a vending malfunction comprising dispensing a product that is not the first product (Page 4, discloses a customer requesting a refund due to the vending machine vending the incorrect product).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Walker et al. and Whitten et al. combination to include determining that the vending machine dispensed an incorrect product as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

**As per Claim 16**, Walker et al. discloses the claimed invention as applied to Claim 14, above. However, Walker et al. fails to explicitly disclose determining that the vending machine has not properly dispensed payment that is due to the customer.

Whitten et al. discloses a vending system with the concept of determining that the vending machine has malfunctioned (Col. 7, Lines 24-30, discloses detecting that a delivery of a product was not made or that an error occurred via the vending machine).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method and system for collecting and applying vending machine demand information of Walker et al. to include determining that the vending machine has malfunctioned as taught by Whitten et al. in order to identify issues relating to the vending machine.

PTS discloses an online vending refund system with the concept of a vending malfunction comprising not properly dispensing payment that is due to a customer (Page 2, discloses a customer requesting a refund due to the vending machine refund button not working resulting in a failure to provide a refund due to a customer).

Therefore, from the teaching of Whitten et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Walker et al. and Whitten et al. combination to include determining that the vending machine has not properly dispensed payment that is due to the customer as taught by PTS in order to identify trends for certain vending machines in relation to malfunctions.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hardman (6,844,813) discloses cooperative vending machine data reporting.

Molbak (US 2002/0189920) discloses coin counter and voucher dispensing machine and method.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thur 7:30am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Examiner, Art Unit 3689

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